December 19, 2002

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M2-03-0346-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on ___ external review panel. This physician is board certified in neurosurgery. ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 49 year-old male who sustained a work related injury on ___. The patient reports that since the injury on ___ he has been experiencing severe low back pain. The patient has had an MRI, CT scan, and lumbar disco-gram. The patient has been diagnosed with disc disease at the L3-4 and L4-5 levels and annular tears at the L3-4 and L4-5 levels.

Requested Services

360 Degree fusion at L3-4 and L4-5 levels.

Decision

The Carrier's denial of authorization and coverage for the requested services is upheld.

Rationale/Basis for Decision

___ physician reviewer indicated that after reviewing the medical records provided, the patient sustained a work related injury to his lumbar back on ___. ___ physician reviewer also indicated that the patient had failed two previous lumbar spine surgeries for L5-S1 disc degeneration. ___ physician reviewer explained that the patient now presents with equivocal discography at the L3-4 and L4-5 levels with annular tears. ___ physician reviewer also explained that the patient has reported inconsistent pain response to surgeries and treatments rendered. ___ physician reviewer further explained that the success rate for an additional surgery such as a 360 Degree Fusion at L3-4 and L4-5 is less than 10%. Therefore, ___ physician reviewer

consultant has concluded that the requested 360 Degree Fusion at L3-4 and L4-5 levels is not medically necessary to treat this patient's condition.

This decision is deemed to be a TWCC Decision and Order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10 (ten)** days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **20 (twenty)** days of your receipt of this decision. (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed. (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings
Texas Workers' Compensation Commission
P.O. Box 40669
Austin, TX 78704-0012

A copy of this decision should be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute. (Commission Rule 133.308(t)(2)).

Sincerely,